

# BAKER & MILLER PLLC **RECEIVED**

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JUL 23 2013

**SURFACE  
TRANSPORTATION BOARD**

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Public Record

ROBERT A WIMBISH

(202) 663-7824 (Direct Dial)

E-Mail: [rwimbish@bakermiller.com](mailto:rwimbish@bakermiller.com)

July 23, 2013

234563

## **BY HAND DELIVERY**

Cynthia T Brown, Chief

Section of Administration, Office of Proceedings

Surface Transportation Board

395 E Street, SW

Washington DC 20423-0001



Re: *Norfolk Southern Railway Company - Abandonment Exemption - In  
Lucas County, Ohio, STB Docket No. AB-290 (Sub-No. 337X)*

Dear Ms. Brown:

Pursuant to the Board's abandonment class exemption procedures for lines with no local business for at least two years (49 C.F.R. Part 1152, Subpart F), enclosed are an original and 11 copies of a verified abandonment notice of exemption for a rail line owned by Norfolk Southern Railway Company.

A check in the amount of \$3,700.00 is enclosed to cover the applicable filing fee

Please acknowledge receipt and filing of this notice of exemption by date stamping the enclosed eleventh copy and returning it to the courier to return to me.

# FILED

JUL 23 2013

**SURFACE  
TRANSPORTATION BOARD**

Sincerely,

*R. A. Wimbish*

Robert A Wimbish

Attorney for Norfolk Southern  
Railway Company

Enclosures

cc: Marc Kirchner, Maquiling Parkerson, LaWada Poarch

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB Docket No. AB-290 (Sub-No. 337X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN LUCAS COUNTY, OHIO**

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**VERIFIED NOTICE OF EXEMPT ABANDONMENT**

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Norfolk Southern Railway Company ("NSR") hereby submits a verified notice of exemption pursuant to 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances of Service and Trackage Rights) for NSR to abandon a total of approximately 1.0 miles of rail line (hereinafter, the "Line") extending between milepost XK 299.3 (to the south of the intersection of Woodstock Ave. and Nebraska Ave.) and milepost XK 300.3 (near the intersection of Douglas Rd. and Dorr St.), all of which is located in Toledo, Lucas County, Ohio. The Line traverses United States Postal Zip Code territory 43606 and 43607.

In accordance with the requirements of 49 C.F.R. §§ 1152.50(b) and (d), NSR provides the following information in support of this notice of abandonment:

**Certification: 49 C.F.R. § 1152.50(b)**

NSR certifies that the Line satisfies the criteria for abandonment under the exemption provisions at 49 C.F.R. part 1152, subpart F. See Certification of R.A. Bartle, General Manager Northern Region, Norfolk Southern Railway Company. During the past two years, NSR has

provided no local or overhead common carrier service over the Line, nor has it received any requests for common carrier service over it.

**Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2)**

The proposed abandonment will be consummated on or after September 11, 2013 (50 days after filing the notice of exemption).

**Additional Information Required: 49 C.F.R. §§ 1152.22(a)(1)-(4), (7)-(8) and (e)(4)**

**Exact name of applicants(49 C.F.R. § 1152.22(a)(1)):**

Norfolk Southern Railway Company

**Whether applicant is a common carriers by railroad (49 C.F.R. § 1152.22(a)(2)).**

NSR is a Class I common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV.

**Relief sought (49 C.F.R. § 1152.22(a)(3)):**

NSR invokes the Board's two-year-out-of-service class exemption procedures to abandon approximately 1.0 miles of rail line (the Line) located in the Toledo, Lucas County, Ohio. The Line extends from milepost XK 299.3 (to the south of the intersection of Woodstock Ave. and Nebraska Ave.) to milepost XK 300.3 (near the intersection of Douglas Rd. and Dorr St.)

**Map (49 C.F.R. § 1152.22(a)(4)):**

A detailed map showing the location of the Line is attached hereto as Exhibit B.

**Applicants' representatives (49 C.F.R. § 1152.22(a)(7)):**

NSR's representative to whom correspondence regarding these proceedings should be sent is as follows:

Robert A. Wimbish  
BAKER & MILLER PLLC  
2401 Pennsylvania Ave., NW, Suite 300  
Washington, DC 20037

Tel: (202) 663-7824  
Fax (202) 663-7849

USPS ZIP codes (49 C.F.R. § 1152.22(u)(8)).

The Lines traverse portions of the following United States Postal Zip Code territories:  
43606 and 43607.

Suitability of the Line for Other Public Purposes (49 C.F.R. § 1152.22(c)(4)).

NSR, as owner of the subject Line, has no opinion as to whether or not the Line and the underlying right-of-way would be suited for other public purposes. NSR may not have fee title to the entire rights-of-way for the Line it proposes to abandon, which could affect future public use plans in the event that abandonment is consummated. However, NSR is unaware of any plans targeting any or all of the subject right-of-way for such purposes. The Line does not contain federally-granted rights-of-way. As appropriate, NSR is willing promptly to make available any information in their possession to anyone so requesting it.

Labor Protection

Because the Line has been out of service for over two years, it is unlikely that any railroad employees will be adversely affected by exercise of abandonment authority. However, as a condition to exercise of the authority permitted in this matter, NSR will accept the imposition of standard labor protective conditions as set forth in Oregon Short Line R. Co – Abandonment – Goshen, 360 1 C.C. 91 (1979).

Certifications

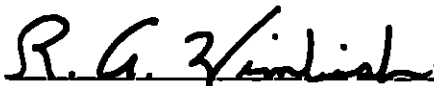
Attached hereto as Exhibit C are Certificates of Service and Publication certifying compliance with the advance notice and newspaper publication requirements set forth at 49 C.F.R. § 1152.50(d)(1) and 49 C.F.R. § 1105.12, respectively. Attached as Exhibit D is a

certificate of compliance with the advance notice requirements for Environmental and Historic Reports as set forth at 49 C.F.R. § 1105.11.

**Environmental and Historic Report**

As is reflected in the certificate of compliance with the provisions of 49 C.F.R. § 1105.11 (Exhibit D), NSR has prepared a combined Environmental and Historic Report ("E&HR") in anticipation of the proposed abandonment of the Line, which conforms to the requirements of 49 C.F.R. §§ 1105.7 and 1105.8. A copy of the E&HR is attached hereto as Attachment 1 to Exhibit D (§ 1105.11 certification).

Respectfully submitted,



Robert A. Wimbish  
BAKER & MILLER PLLC  
2401 Pennsylvania Ave., NW  
Suite 300  
Washington, DC 20037  
Tel: (202) 663-7824  
Fax: (202) 663-7849

Attorney for Norfolk Southern Railway Company

July 23, 2013

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB Docket No. AB-290 (Sub-No. 337X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN LUCAS COUNTY, OHIO**

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**VERIFIED NOTICE OF EXEMPT ABANDONMENT**

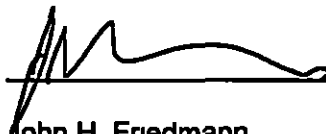
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**VERIFICATIONS**

**Verification**

**I, John Friedmann, Vice President for Norfolk Southern Railway Company ("NSR"), hereby verify under penalty of perjury that to the best of my knowledge the foregoing abandonment notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of NSR in connection with this proceeding before the Surface Transportation Board**

**Executed this 6<sup>th</sup> day of May 2013**

A handwritten signature in black ink, consisting of several sharp, vertical strokes followed by a series of connected loops and a final horizontal stroke.

**John H. Friedmann  
Vice President**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB Docket No. AB-290 (Sub-No. 337X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN LUCAS COUNTY, OHIO**

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**VERIFIED NOTICE OF EXEMPT ABANDONMENT**

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**EXHIBIT A**

**NSR CERTIFICATION**



**CERTIFICATION**

STATE OF GEORGIA

SS:

CITY OF ATLANTA:

R. A. Bartle makes oath and says that he is General Manager Northern Region for Norfolk Southern Railway Company; that the rail line between Milepost XK 299 3 and Milepost XK 300 3, over which service is to be abandoned, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years, that no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; and that no formal complaint filed by a user of rail service on the line or a state or local government entity acting on behalf of such user regarding cessation of service over the line either is pending before the Surface Transportation Board or any U. S. District Court or has been decided in favor of the complainant within the two-year period.

  
R. A. Bartle

Subscribed and sworn to before me  
this 13<sup>th</sup> day of May, 2013.

  
Notary Public

My commission expires

4/20/15

SANDRA Y. GAMBRELL  
NOTARY PUBLIC  
COBB COUNTY, GEORGIA  
MY COMMISSION EXPIRES APRIL 20, 2015

MY COMMISSION EXPIRES APRIL 30, 2012  
DOES COUNTY GEORGIA  
NOTARY PUBLIC  
SANDRA J. GARNER

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB Docket No. AB-290 (Sub-No. 337X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN LUCAS COUNTY, OHIO**

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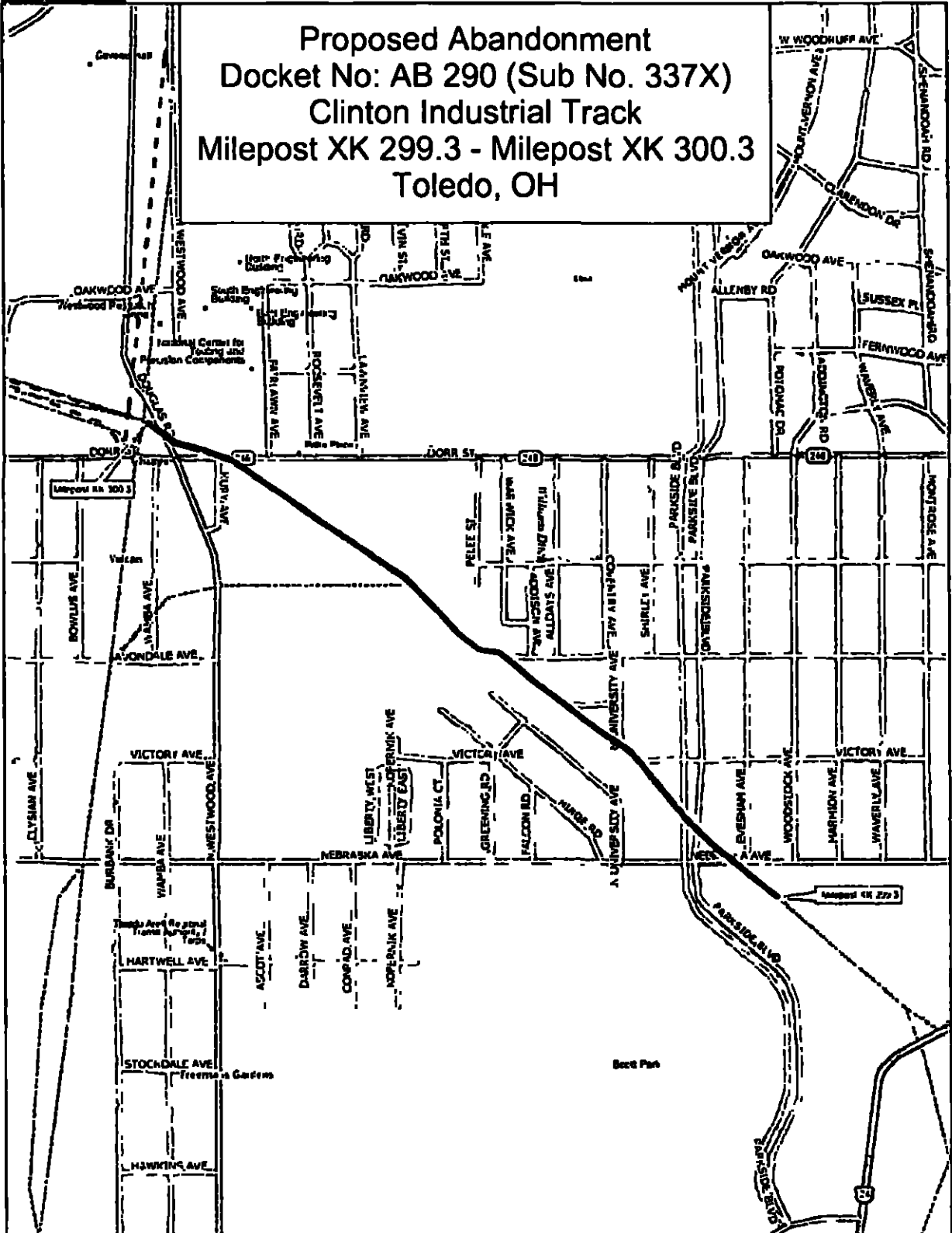
**VERIFIED NOTICE OF EXEMPT ABANDONMENT**

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**EXHIBIT B**

**MAP**

**Proposed Abandonment**  
**Docket No: AB 290 (Sub No. 337X)**  
**Clinton Industrial Track**  
**Milepost XK 299.3 - Milepost XK 300.3**  
**Toledo, OH**



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www.delorme.com



**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB Docket No. AB-290 (Sub-No. 337X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN LUCAS COUNTY, OHIO**

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**VERIFIED NOTICE OF EXEMPT ABANDONMENT**

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**EXHIBIT C**

**CERTIFICATES OF  
SERVICE/PUBLICATION**

**Certificate of Service of Advance Notice**

**49 C.F.R. § 1152.50(d)(1) – Notice**

I certify that, on July 8, 2013, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with the written notice of intent of Norfolk Southern Railway Company ("NSR") to invoke the Board's notice of exemption procedures for NSR to abandon approximately 1.0 miles of rail line located in Toledo, Lucas County, Ohio:

**Public Service Commission**

Todd A. Snitchler, Chairman  
The Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215

**Department of Defense (Military Traffic Management Command, Transportation Engineering Agency, Railroads for National Defense Program)**

David Dorfman  
SDDC TEA  
Railroads for National Defense  
709 Ward Dr., Bldg 1990  
Scott AFB, IL 62225  
(618) 220-5741

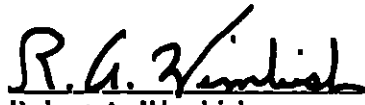
**The National Park Service, Recreation Resources Assistance Division**

Charlie Stockman  
National Park Service  
Rivers & Trails Conservation Program  
1201 Eye Street, NW, 9th Floor (Org. Code 2220)  
Washington, D C. 20005  
(202) 354-6900

**U.S. Department of Agriculture, Chief of the Forest Service**

Thomas L. Tidwell, Chief  
Forest Service  
U.S. Department of Agriculture  
Sidney R Yates Federal Building  
201 14th Street SW  
Washington, DC 20024  
(202) 205-8439  
S/W Sandy Berg, Office Manager

July 23, 2013


  
Robert A. Wimbish  
Attorney for Norfolk Southern  
Railway Company

**Certificate of Newspaper Publication**

**49 C.F.R. § 1105.12 – Newspaper Notice**

I certify that a "Notice of Intent to Abandon Rail Service" was published in the form prescribed by the Board for abandonment notices of exemption (49 C.F.R. § 1105.12). The notice was published one time on July 10, 2013, in the *Toledo Journal*, a newspaper of general circulation in Lucas County, Ohio.

July 23, 2013

  
\_\_\_\_\_  
Robert A. Wimbish  
Attorney for Norfolk Southern  
Railway Company



**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB Docket No. AB-290 (Sub-No. 337X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
- ABANDONMENT EXEMPTION -  
IN LUCAS COUNTY, OHIO**

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**VERIFIED NOTICE OF EXEMPT ABANDONMENT**

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## **EXHIBIT D**

# **CERTIFICATE OF COMPLIANCE WITH ENVIRONMENTAL AND HISTORIC REPORT REQUIREMENTS**



**Environmental and Historic Report  
Certificate of Service**

Pursuant to the requirements of 49 C.F.R. § 1105.7(b) and 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report in Docket No. AB-290 (Sub-No. 337X) was mailed via first class mail on May 7, 2013 to the following parties:

Scott Nally  
Ohio EPA  
P O. Box 1049  
Columbus, OH 43215

Susan Hedman  
Regional EPA – Region 5  
77 W Jackson Blvd.  
Chicago, IL 60604

Patrick Ernest  
Ohio Department of Natural Resources  
Office of Coastal Management  
105 W. Shoreline Drive  
Sandusky, OH 44870

USDA-NRCS State Office  
200 North High Street, Room 522  
Columbus, OH 43215

Tom Melius  
U.S. Fish and Wildlife Service  
BHW Federal Building  
1 Federal Drive  
Ft Snelling, MN 55111

U.S. Army Corps Of Engineers  
Buffalo District  
1776 Niagara Street  
Buffalo, NY 14207

Mayor Michael Bell  
One Government Center  
640 Jackson Street  
Suite 2200  
Toledo, Ohio 43604

Board of Commissioners  
Lucas County  
One Government Center  
Suite 800  
Toledo, OH 43604

Todd Audet  
Ohio Department of Transportation  
317 East Poe Road  
Bowling Green, Ohio 43402

Ohio Historic Preservation Office  
800 East 17<sup>th</sup> Avenue  
Columbus, OH 43211

Michael Reynolds, Regional Director  
National Park Service  
601 Riverfront Drive  
Omaha, NE 68102-4226

Charlie Stockman  
National Park Service  
Rivers and Trails Conservation Program  
1201 Eye Street, NW 9<sup>th</sup> floor  
Washington D C 20005

National Geodetic Survey  
Geodetic Service Division  
Room 9202 NGS/12  
1315 East-West Hwy  
Silver Spring, MD 20910 3282

United States Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, D C. 20004



Marcellus C. Kirchner  
May 7, 2013

**ATTACHMENT 1**  
**ENVIRONMENTAL AND HISTORIC REPORT**  
**INCLUDING SAMPLE TRANSMITTAL LETTER**



Norfolk Southern Corporation  
3 Commercial Place  
Norfolk, VA 23510-9207

Strategic Planning Department  
Three Commercial Place  
Norfolk, VA 23510-9207  
(757) 629-2679

May 7, 2013

RE STB Docket No. AB-290 (Sub-No 337X), Norfolk Southern Railway Company –  
Abandonment – in Lucas County, Ohio

Dear Sir/Madam:

Norfolk Southern Railway Company (NSR) plans to request authority from the Surface Transportation Board (STB) to abandon a segment of rail line between Mileposts XK 299.3 and Milepost XK 300.3 in Lucas County, Ohio

Enclosed is a Combined Environmental and Historic Report (Report) which describes the proposed abandonment and other pertinent information. A map of the proposed track abandonment can be found in Appendix A of this report Appendix B of this report lists the various agencies receiving it

The railroad does not anticipate adverse environmental impacts, however, if you identify any adverse environmental effects please describe the actions that would assist in alleviating them Please provide us with a written response indicating any concerns or lack thereof, which will be included in the Report and sent to the Surface Transportation Board (STB).

This Report is being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding If you believe any of the information is incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Section of Environmental Analysis (SEA) by telephone at (202) 245-0295 or by mail to

Surface Transportation Board,  
395 E Street, S W., Room 1106  
Washington DC 20423-0001

Please refer to the above Docket when contacting the STB. Applicable statutes and regulations impose stringent deadlines for processing this action. For this reason your written comments (with a copy to us) would be appreciated within three weeks.

Your comments will be considered by the Board in evaluating the environmental impacts of the contemplated action. In order for us to consider your input prior to filing with the STB, we must receive your comments within three weeks Please provide information to LaWada Poarch by email at [LaWada.Poarch@nscorp.com](mailto:LaWada.Poarch@nscorp.com), or by mail to

LaWada Poarch  
Abandonments Coordinator  
Norfolk Southern Corporation  
Strategic Planning Department  
Three Commercial Place  
Norfolk, VA 23510

Sincerely,

A handwritten signature in black ink, appearing to read 'Marcellus C. Kirchner', with a stylized, flowing script.

Marcellus C. Kirchner  
Director Strategic Planning  
Norfolk Southern Railway Company

Attachment

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB DOCKET NO. AB-290 (Sub-No. 337X)  
NORFOLK SOUTHERN RAILWAY COMPANY**

**PROPOSED RAIL LINE ABANDONMENT  
BETWEEN MILEPOST XK 299.3 AND MILEPOST XK 300.3  
IN LUCAS COUNTY, OHIO**

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**Combined Environmental and Historic Report**

**May 7, 2013**

place This alternative is not satisfactory. NSR would incur opportunity and other holding costs that would need to be covered by non-existent on-line shippers were this line segment to be retained.

A map depicting the line proposed for abandonment is attached as **Appendix A**. An example of the railroad's letter to federal, state and local government agencies, along with a list of the consulting agencies NSR has contacted, is attached as **Appendix B**. Comments received as a result of NSR's written requests for feedback can be found in **Appendix C**.

**49 CFR 1105.7(e)(2) Transportation system.**

*Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.*

**RESPONSE:** Effects of the proposed action on regional or local transportation systems and patterns would be negligible. There is no rail freight or passenger traffic originating or terminating on the line segment proposed for abandonment, and the line segment has been rendered unnecessary because of changes in track configuration in NSR's adjacent Airline Yard in Toledo

**49 CFR 1105.7(e)(3) Land use.**

*(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.*

**RESPONSE.** An outline of future land use plans has been requested from the City of Toledo and Lucas County. These agencies were also asked to comment on the consistency of the proposed abandonment with existing land use plans, but they have



not done so to date. NSR has no reason to believe, however, that the proposed abandonment would have any adverse impact on – or be inconsistent with – existing land use plans.

*(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.*

RESPONSE: Consultation was requested from The United States Department of Agriculture, Natural Resources Conservation Service, but NSR has not received a response to date.

*(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by Sec. 1105.9.*

RESPONSE: Consultation was requested from Ohio Department of Natural Resources, Office of Coastal Management, but NSR has not received a response to date. NSR has no reason to believe that the proposed abandonment would be inconsistent with the coastal zone management plan.

*(iv) If the proposed action is an abandonment state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.*

RESPONSE: The railroad may not have fee title to the entire right-of-way underlying the line segment proposed for abandonment, and so NSR may not have a contiguous corridor available for re-deployment for possible alternative public use(s). NSR does not know if there are any state or local plans that may be facilitated by the proposed abandonment, and NSR has no opinion about whether the right-of-way would be suitable for alternative public purposes.

**49 CFR 1105.7(e)(4) Energy.**

*(i) Describe the effect of the proposed action on transportation of energy resources.*

**RESPONSE:** Development and transportation of energy resources will not be affected by the abandonment. No freight or passenger traffic is moving over the line, and the line did not carry any energy resources when last operated.

*(ii) Describe the effect of the proposed action on recyclable commodities.*

**RESPONSE** Movement or recovery of recyclable commodities will not be affected by the abandonment. No freight or passenger traffic is moving over the line, and the line did not carry recyclable commodities when last operated.

*(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.*

**RESPONSE:** The proposed action involves the abandonment and salvage of a rail line that has been inactive for over two years, and as such will not result in an increase or decrease in overall energy.

*(iv) If the proposed action will cause diversions from rail to motor carriage of more than:*

*(A) 1,000 rail carloads a year; or*

*(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.*

**RESPONSE:** No traffic will be diverted from rail to motor carriage as a result of the proposed action, so the above thresholds will not be exceeded.

**49 CFR 1105.7(e)(5) Air.**

*(i) If the proposed action will result in either:*

*(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or*

*(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or*

*(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions*

**RESPONSE** The above thresholds will not be exceeded.

*(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either.*

*(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,*

*(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or*

*(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.*

**RESPONSE:** The above thresholds will not be exceeded. For the record, however, Lucas County, Ohio, is in attainment for all National Ambient Air Quality Standard (NAAQS) pollutants according to the U.S. Environmental Protection Agency.

*(iii) If transportation of ozone depleting materials (such as nitrogen oxide and Freon®) is contemplated, identify the materials and quantity, the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment*

**RESPONSE:** Not applicable

#### **49 CFR 1105.7(e)(6) Noise.**

*If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:*

*(i) An incremental increase in noise levels of three decibels Ldn or more; or*

*(ii) An increase to a noise level of 65 decibels Ldn or greater.*

*If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.*

**RESPONSE** The above thresholds will not be exceeded.



**49 CFR 1105.7(e)(7) Safety.**

*(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).*

RESPONSE: Abandonment of the subject rail line segment will have no significant effect upon public health or safety. The abandonment will result in the elimination of five road crossings at grade, which will reduce distractions to the motoring public.

*(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions), the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of an accidental release of hazardous materials.*

RESPONSE: Not applicable

*(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.*

RESPONSE: The railroad has no knowledge of hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way or in adjacent areas.

**49 CFR 1105.7(e)(8) Biological Resources.**

*(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.*

RESPONSE: The railroad understands that no federally- listed endangered species or their habitats will be adversely affected. The railroad has requested input from the U.S. Fish and Wildlife Service (USFWS) to ascertain any impacts to

surrounding habitats and species. USFWS has advised that they do not anticipate any impact on federally-listed endangered, threatened or candidate species or their habitats. The response of USFWS is attached as part of **Appendix C**.

*(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects*

**RESPONSE:** The line segment proposed for abandonment does not appear to pass through state parks or forests, national parks or forests, or wildlife sanctuaries. Therefore, no adverse effects on wildlife sanctuaries, national parks or forests, or state parks or forests are anticipated.

**49 CFR 1105.7(e)(9) Water.**

*(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.*

**RESPONSE:** The railroad does not intend to remove or alter the contour of the roadbed underlying the rail line to be abandoned by way of excavation or other ground-disturbance activity. Accordingly, no soils will be disturbed as a result of the proposed abandonment, and no storm water mitigation or National Pollutant Discharge Elimination System permits will be required. The line proposed for abandonment crosses no watercourses. There are no plans to undertake in-stream work, or dredge and/or use any fill materials in connection with the proposed abandonment, so for this reason also, the proposed abandonment will not result in water quality impacts.

Consultation has been requested from the Ohio Environmental Protection Agency (OH EPA) and from the United States Environmental Protection Agency (USEPA). OH EPA

advised that a permit under Section 402 of the Clean Water Act is not required for the proposed activity. OH EPA's response is attached in **Appendix C**.

*(ii) Based on consultation with the U S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.*

**RESPONSE:** The geometry of the roadbed will not be altered and no in-stream work is contemplated. No discernible effects on either 100-year flood plains or adjacent wetlands are expected in connection with the proposed abandonment. Consequently, the railroad does not believe a Section 404 permit will be required in connection with the proposed abandonment. Consultation was requested from the U.S. Army Corps of Engineers, which advised that if the project is limited to the existing railroad bed and there is no discharge of fill within a waters of the United States – and, indeed, here there will be no salvage or related activities taking place beyond the boundaries of the existing railroad bed, and there will be no discharge of fill within the waters of the United States as a consequence of the proposed abandonment – then no authorization will be required from the USACE. The response is attached as part of **Appendix C**

*(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.*

**RESPONSE:** The railroad does not plan to remove or alter the roadbed underlying the line to be abandoned, to undertake in-stream work or to dredge or use any fill materials. There will be no excavation or other ground-disturbance activity, and, because no soils will be disturbed, no storm water mitigation or National Pollutant Discharge Elimination System permit will be required. The railroad anticipates that the abandonment will not affect water

quality or require the issuance of a Section 402 permit under the Federal Water Pollution Control Act. Nevertheless, NSR has requested input from the U.S. Environmental Protection Agency (as indicated in a preceding section) and the Ohio Department of Natural Resources. Ohio EPA, through a letter dated November 9, 2012, and through an email dated November 13, 2012 (from its Division of Surface Water, Central Office – NPDES, Biosolids, and Pretreatment Unit), confirmed that issuance of a Section 402 permit will not be required. See Appendix C

**49 CFR 1105.7(e)(10) Proposed Mitigation.**

*Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.*

RESPONSE: Abandonment of the involved rail line is not expected to produce adverse environmental impacts for the reasons set forth above. Only minimal physical activity may occur as a result of the proposed abandonment, such as removal of rail, ties, and other railroad appurtenances. The railroad will undertake all reasonable mitigation associated with these activities as directed by the Board to assure the abandonment does not produce adverse environmental impacts.



## **HISTORIC REPORT**

### **49 CFR 1105.8(d)**

## **PROPOSED ACTION AND ALTERNATIVES**

NSR proposes to abandon 1.00 miles of rail line between Mileposts XK 299 3 and XK 300.0 in Lucas County, Ohio. No traffic has originated or terminated on the line in over two years, and no customers are located on the line. Any overhead traffic which moved over the line has been routed over other line segments. This line has been rendered unnecessary because of changes in track configuration in NSR's adjacent Airline Yard in Toledo.

Following abandonment, the line segment's rail and related track material will be salvaged. Salvage will consist of removing the rail and track material from the existing roadbed. The contours of the existing roadbed will remain as is, and existing drainage systems will remain intact. When the rail and track material are removed, the contractor will smooth the roadbed to a level surface. No ballast will be removed, so no soil disturbance will occur (and, accordingly, no National Pollutant Discharge Elimination System permit will be required). No digging or burying of any kind will be permitted. All salvaged steel components will either be reused or sold as scrap. Crossties may be reused in other railroad operations or they will be disposed of in accordance with applicable federal and state laws and regulations. There are no bridges on the line segment.

The alternative to abandonment is to not abandon the line and retain the track in place. This alternative is not satisfactory. The railroad would incur opportunity and

other holding costs that would need to be covered by non-existent on-line shippers were this line segment to be retained. A map depicting the line proposed for abandonment is attached in **Appendix A**

**ADDITIONAL INFORMATION**

- (1) **U.S.G.S. Topographic Map** - Maps were furnished to Ohio Historic Preservation Division, Department of Natural Resources
- (2) **Written Description of Right of Way** - The right-of-way width is primarily 50 feet along the main track centerline. The proposed segment is between Mileposts XK 299.3 and XK 300.3. Pursuant to Surface Transportation Board (STB) policy, the railroad's right-of-way will constitute the Area of Potential Effect (APE) for this undertaking.
- (3) **Photographs** – There are no structures on the line
- (4) **Date of Construction of Structures** – Not applicable
- (5) **History of Operations and Changes Contemplated** – The railroad property that is the subject of the related notice to the STB consists of 1.00 miles of rail line between milepost XK 299.3 and XK 300.3 in Lucas County, Ohio, and comprises a portion of rail line commonly referred to as the Clinton Industrial Track (or "Clinton IT") This segment of the Clinton IT has been rendered redundant by an improvement project at NSR's Airline Yard, in which new connections were built. No customers are served from this segment.

This line was part of the first portion of the Erie & Kalamazoo Railroad, completed in 1836, connecting Toledo (which at that time was part of Michigan) with Adrian, Michigan. The line has been operated by a number of predecessor railroads,

such as the Michigan Southern Rail Road Company (1849 to 1855); the Michigan Southern and Northern Indiana Rail Road Company (1855 to 1869); the Lake Shore and Michigan Southern Railway Company (1869 to 1914), and the New York Central Railroad (after 1914), which merged with The Pennsylvania Railroad in 1968 to form Penn Central Transportation Company (Penn Central). Consolidated Rail Corporation (Conrail) which commenced operations on April 1, 1976, assumed operation of the line following the bankruptcy of the Penn Central. And, in 1999, NSR<sup>1</sup> assumed control of the subject line segment

(6) **Summary of Documents In Carrier's Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic** – Not applicable, as there are no structures on the line or within the APE.

(7) **Opinion Regarding Criteria For Listing In The National Register Of Historic Places** – There are no structures on the line or within the APE. In addition, the railroad has no reason to believe that there is any likelihood of finding archaeological resources or historic properties on or immediately adjacent to the line proposed for abandonment.

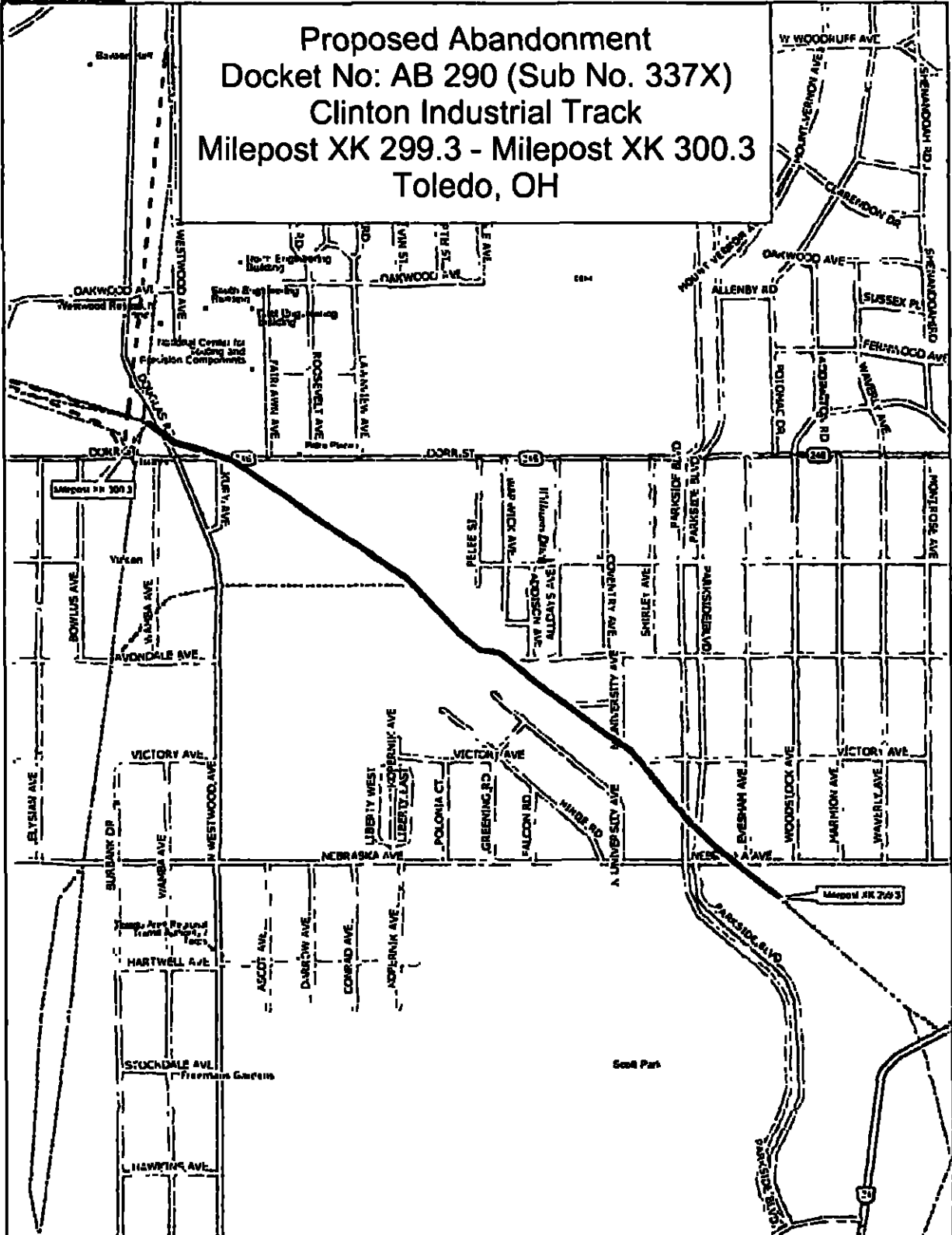
(8) **Subsurface Ground Conditions That Might Affect Archaeological Recovery**  
The railroad is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the line and salvage of material from its surface will not affect any potential archaeological

---

<sup>1</sup> Southern Railway Company was incorporated in 1894. In 1982, Norfolk Southern Corporation acquired control of Southern Railway Company along with Norfolk and Western Railway Company. In 1990, Southern Railway Company changed its name to Norfolk Southern Railway Company and Norfolk and Western Railway Company became a wholly owned subsidiary of NSR.

**APPENDIX A**  
**Site Map**

**Proposed Abandonment**  
**Docket No: AB 290 (Sub No. 337X)**  
**Clinton Industrial Track**  
**Milepost XK 299.3 - Milepost XK 300.3**  
**Toledo, OH**



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www.delorme.com



**APPENDIX B**  
**Agency Letters**

## RECIPIENT LIST

**Proposed Rail Line Abandonment of 1.00 miles of rail line between Mileposts XK 299.3 and XK 300.3 in Lucas County, Ohio.**

### STATE ENVIRONMENTAL PROTECTION AGENCY

Scott Nally  
Ohio EPA  
P.O. Box 1049  
Columbus, OH 43215

### REGIONAL ENVIRONMENTAL PROTECTION AGENCY

Susan Hedman  
Regional EPA - Region 5  
77 W Jackson Blvd  
Chicago, IL 60604

### STATE COASTAL ZONE MANAGEMENT

Patrick Ernest  
Ohio Department of Natural Resources  
Office of Coastal Management  
105 W Shoreline Drive  
Sandusky, OH 44870

### NATURAL RESOURCES CONSERVATION SERVICE

USDA-NRCS State Office  
200 North High Street, Room 522  
Columbus, OH 43215

### FISH AND WILDLIFE SERVICE

Elizabeth McCloskey  
U.S. Fish and Wildlife Service  
P O Box 2616  
Chesterton, IN 46304

### US ARMY CORPS OF ENGINEERS

US ACE  
Buffalo District  
1776 Niagara Street  
Buffalo, NY 14207

### CITY

Mayor Michael Bell  
One Government Center  
640 Jackson  
Suite 2200  
Toledo, Ohio 43604

### COUNTY

Board of Commissioners  
Lucas County  
One Government Center  
Suite 800  
Toledo, OH 43604

### STATE CLEARINGHOUSE (DOT)

Todd Audet  
Ohio Department of Transportation  
317 East Poe Road  
Bowling Green, Ohio 43402

### STATE HISTORIC PRESERVATION OFFICE

Ohio Historic Preservation Office  
800 East 17<sup>th</sup> Avenue  
Columbus, OH 43211

### NATIONAL PARK SERVICE

Michael Reynolds, Regional Director  
National Park Service  
601 Riverfront Drive  
Omaha, NE 68102-4226

Charlie Stockman  
National Park Service  
Rivers and Trails Conservation Program  
1201 Eye Street, NW 9<sup>th</sup> floor  
Washington D C 20005

### NATIONAL GEODETIC SURVEY

National Geodetic Survey  
Geodetic Service Division  
Room 9202 NGS/12  
1315 East-West Hwy  
Silver Spring, MD 20910-3282

### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

USEPA  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, D C. 20004



Norfolk Southern Corporation  
3 Commercial Place  
Norfolk, VA 23510-9207

Strategic Planning Department  
Three Commercial Place  
Norfolk, VA 23510-9207  
(757) 629-2679

May 7, 2013

RE. STB Docket No AB-290 (Sub-No. 337X), Norfolk Southern Railway Company –  
Abandonment – in Lucas County, Ohio

Dear Sir/Madam:

Norfolk Southern Railway Company (NSR) plans to request authority from the Surface Transportation Board (STB) to abandon a segment of rail line between Mileposts XK 299 3 and Milepost XK 300 3 in Lucas County, Ohio.

Enclosed is a Combined Environmental and Historic Report (Report) which describes the proposed abandonment and other pertinent information. A map of the proposed track abandonment can be found in Appendix A of this report. Appendix B of this report lists the various agencies receiving it.

The railroad does not anticipate adverse environmental impacts; however, if you identify any adverse environmental effects please describe the actions that would assist in alleviating them. Please provide us with a written response indicating any concerns or lack thereof, which will be included in the Report and sent to the Surface Transportation Board (STB).

This Report is being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Section of Environmental Analysis (SEA) by telephone at (202) 245-0295 or by mail to

Surface Transportation Board,  
395 E Street, S W , Room 1108  
Washington DC 20423-0001

Please refer to the above Docket when contacting the STB. Applicable statutes and regulations impose stringent deadlines for processing this action. For this reason your written comments (with a copy to us) would be appreciated within three weeks.

Your comments will be considered by the Board in evaluating the environmental impacts of the contemplated action. In order for us to consider your input prior to filing with the STB, we must receive your comments within three weeks. Please provide information to LaWada Poarch by email at [LaWadaPoarch@nscorp.com](mailto:LaWadaPoarch@nscorp.com), or by mail to:

LaWada Poarch  
Abandonments Coordinator  
Norfolk Southern Corporation  
Strategic Planning Department  
Three Commercial Place  
Norfolk, VA 23510



Sincerely,

A handwritten signature in black ink, appearing to read 'M. Kirchner', with a stylized, flowing script.

Marcelus C Kirchner  
Director Strategic Planning  
Norfolk Southern Railway Company

Attachment

**APPENDIX C**  
**Agency Responses**



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Ecological Services  
4625 Morse Road, Suite 104  
Columbus, Ohio 43230  
(614) 416-8993 / FAX (614) 416-8994

December 10, 2012

Norfolk Southern Corp  
Attn: Marcellus C. Kirchner  
3 Commercial Place  
Norfolk, VA 23510-9207

Tails No 03E15000-2013-TA-0248

Reference: Docket No. AB-290 (Sub-No. 337X) Norfolk Southern Railway Abandonment in  
Lucas County Ohio


Dear Mr. Kirchner,

We have received your recent correspondence requesting information about the subject proposal. There are no Federal wilderness areas, wildlife refuges or designated critical habitat within the vicinity of the project area. Based on the information you have provided, at this time we have no objection to the proposed project.

**ENDANGERED SPECIES COMMENTS:** Due to the project type, size, and location, we do not anticipate any impact on federally listed endangered, threatened, or candidate species, or their habitats. Should the project design change, or during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the Service should be initiated to assess any potential impacts.

If you have additional questions or require further assistance with your project proposal, please contact me at the following number (614) 416-8993, x12. I would be happy to discuss the project in further detail with you and provide additional assistance if necessary. In addition, you can find more information on natural resources in Ohio, and a county list of federally threatened and endangered species in Ohio, by visiting our homepage at <http://www.fws.gov/midwest/ohio>.

Sincerely,

  
for Mary Knapp, Ph.D.  
Field Supervisor



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

November 9, 2012

Norfolk Southern Corporation  
Kearston St. Dennis, Coordinator Abandonments  
Strategic Planning – 12<sup>th</sup> Floor  
3 Commercial Place  
Norfolk, VA 23510

Re: Docket No AB-290 (Sub-No. 337X), Norfolk Southern Railway Company  
Abandonment – in Lucas County, Ohio

Dear Mr. St. Dennis:

This letter is in response to your October 29, 2012 correspondence regarding the proposed abandonment of 1.00 miles of rail line between Milepost XK 299.3 and Milepost XK 300.3 in Lucas County, Ohio. You requested an opinion on whether any permits under Section 402 of the Clean Water Act are required for this proposed project. Based upon your information provided, it appears that no permits under Section 402 will be required for this proposed project.

If you have any further questions, please contact Jason Fyffe of my staff at (614) 728-1793 or via email at [jason.fyffe@epa.state.oh.us](mailto:jason.fyffe@epa.state.oh.us).

Sincerely,

Scott J. Nally  
Director

**Poarch, Lawada G.**

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**From:** Howdysshell, Jacob <Jacob.Howdysshell@epa.state.oh.us>  
**Sent:** Tuesday, November 13, 2012 3:03 PM  
**To:** St. Dennis, Kearston Comegys  
**Cc:** Novak, Paul, gunter.kenneth@epamail.epa.gov  
**Subject:** Lucas County Abandonment  
**Attachments:** norfolk.so railway.pdf

Hello Kearston,

The Ohio Environmental Protection Agency is in agreement that the proposed action in Docket No AB-290 (Sub-No 337X), Norfolk Southern Railway Company - Abandonment – In Lucas County, Ohio is consistent with applicable State water quality standards. A permit under Section 402 of the Clean Water Act 33 U.S.C.1342 is not required for the proposed activity as described.

Let me know if you have any further questions.

Jacob Howdysshell, P.E., Supervisor  
NPDES, Biosolids, and Pretreatment Unit  
Ohio EPA Division of Surface Water, Central Office  
Work Phone: (614) 644-2018  
Work Fax: (614) 644-2745  
Mailing Address: PO Box 1049, Columbus, OH 43216-1049  
Physical Address: 50 W Town St, Suite 700, Columbus, OH 43215





**DEPARTMENT OF THE ARMY**  
**BUFFALO DISTRICT, CORPS OF ENGINEERS**  
**1776 NIAGARA STREET**  
**BUFFALO, NEW YORK 14207-3199**

REPLY TO

February 5, 2013

Regulatory Branch

**SUBJECT. Department of the Army Permitting Requirements, Application No. 2013-00031**

Kearston St Dennis  
Coordinator Abandonments  
Strategic Planning – 12<sup>th</sup> Floor  
Norfolk Southern Corporation  
3 Commercial Place  
Norfolk, VA 23510

Dear Kearston:

This is in reference to your proposal to abandon approximately 1 mile of the rail line between Milepost XK 299.3 to Milepost 300.3 in the City of Toledo, Lucas County, Ohio

Under Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers (USACE) regulates the discharge of dredged or fill material into waters of the United States, including freshwater wetlands. Certain types of activities, such as land clearing using mechanized equipment and/or side casting, in a jurisdictional water would likely be regulated under Section 404 of the Clean Water Act.

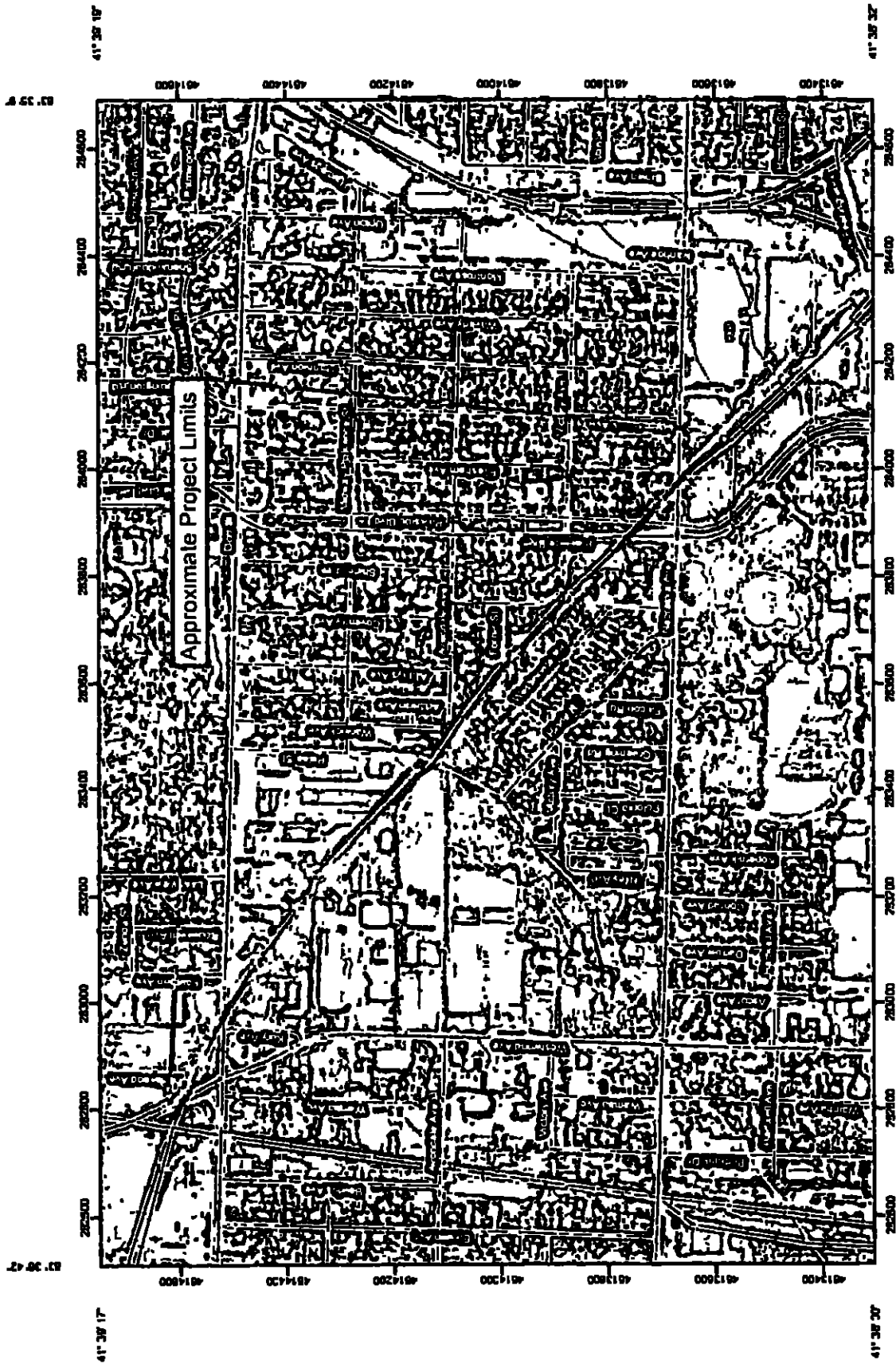
An office resource review was conducted which included an evaluation of the following resources:

- a USGS topographical maps (Figure 1 of 3)
- b soils survey maps (Figure 2 of 3)
- c National Wetland Inventory (NWI) map (Figure 3 of 3)
- d. Aerial photographs

The proposed project area reportedly crosses Williams Ditch approximately 2,515 feet northwest of Milepost XK 299.3 as indicated on the USGS and the soil survey. However, based upon a review of the national wetland inventory map and aerial photographs this waterway is contained within a culvert in the vicinity of the tracks. There are several smaller wooded areas reported along both sides of the railroad line that reportedly contain partially hydric soils

Because the evaluation was based solely upon references contained in our office, and not a site specific assessment, I strongly suggest that either an application for a Department of the Army permit be submitted, or this office contacted for advice on procedures to be followed should the project include the discharge of fill or mechanized landclearing within Williams Creek





Map Scale: 1:10,000 if printed on A size (8.5" x 11") sheet

0 100 200 400 600 800 1,000 2,000 3,000 Feet

0 100 200 400 600 800 1,000 2,000 3,000 Meters

N

Norfolk Southern Railway Company  
D/A Processing No. 2013-00013  
Lucas County, Ohio Quad: TOLEDO

Sheet 2 of 3

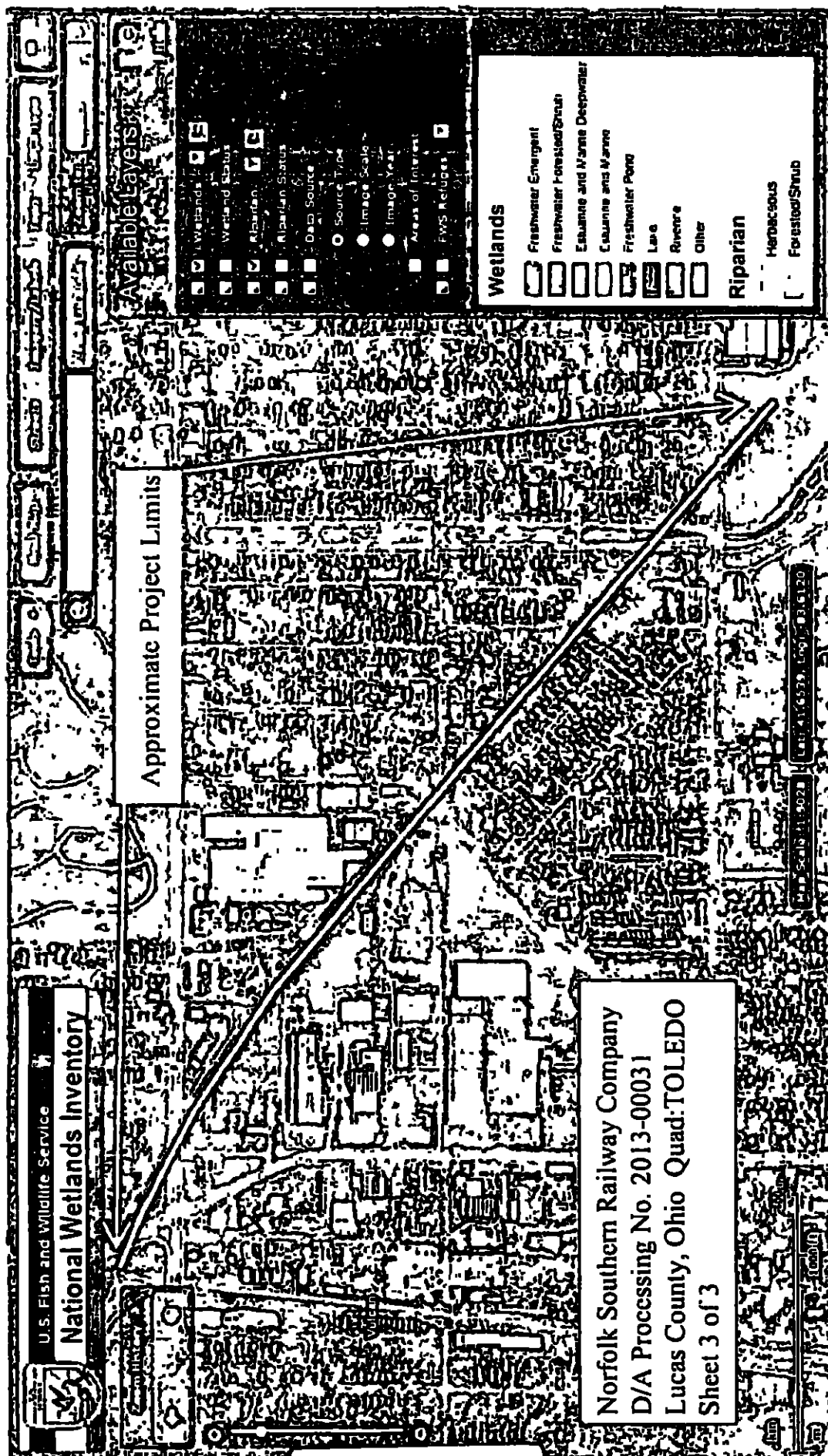
LSDA  
Natural Resources  
Conservation Service

Web Soil Survey  
National Cooperative Soil Survey

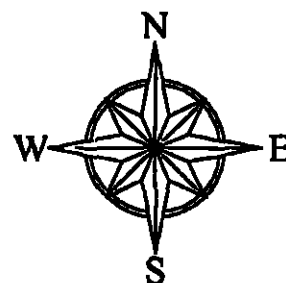
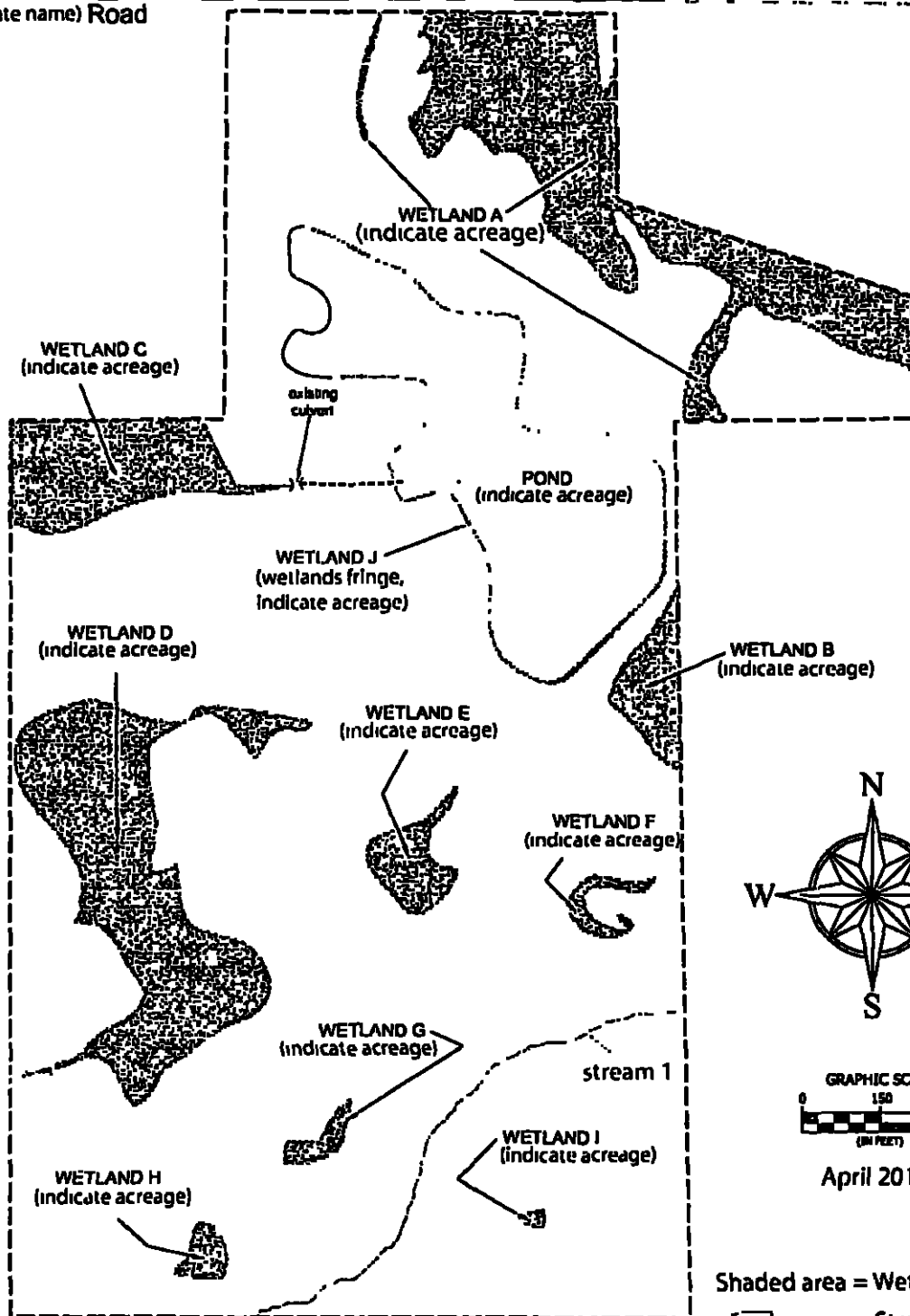
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Page 1 of 3







(indicate name) Road



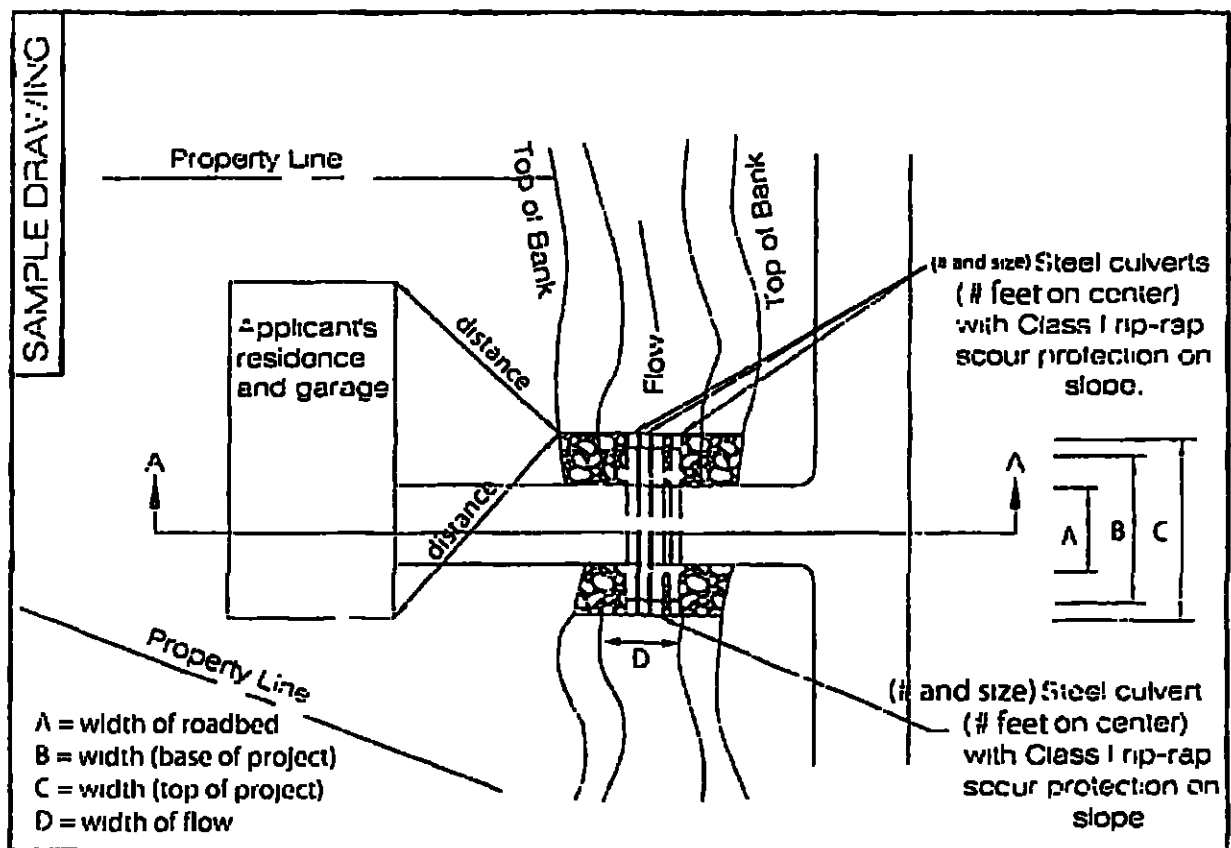
April 2012

Shaded area = Wetland

— = Stream

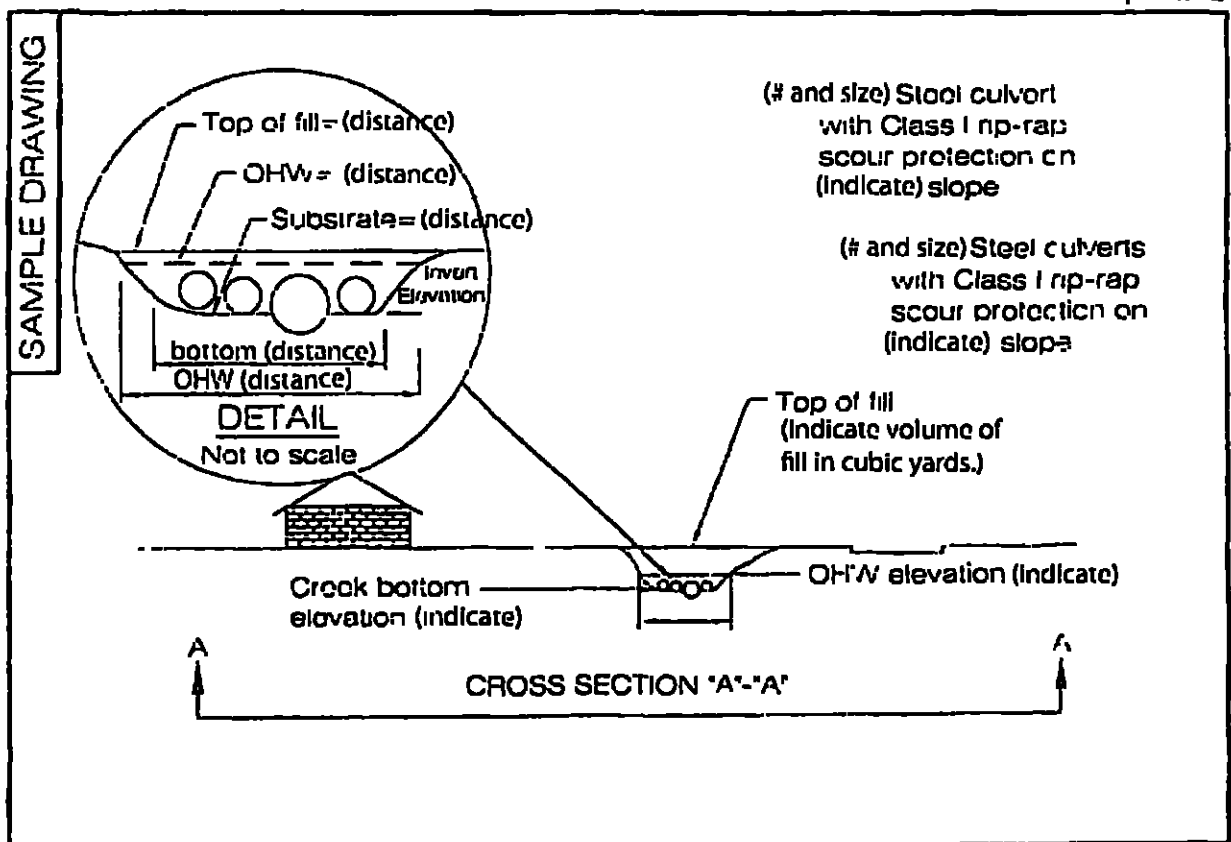
---- = Study area

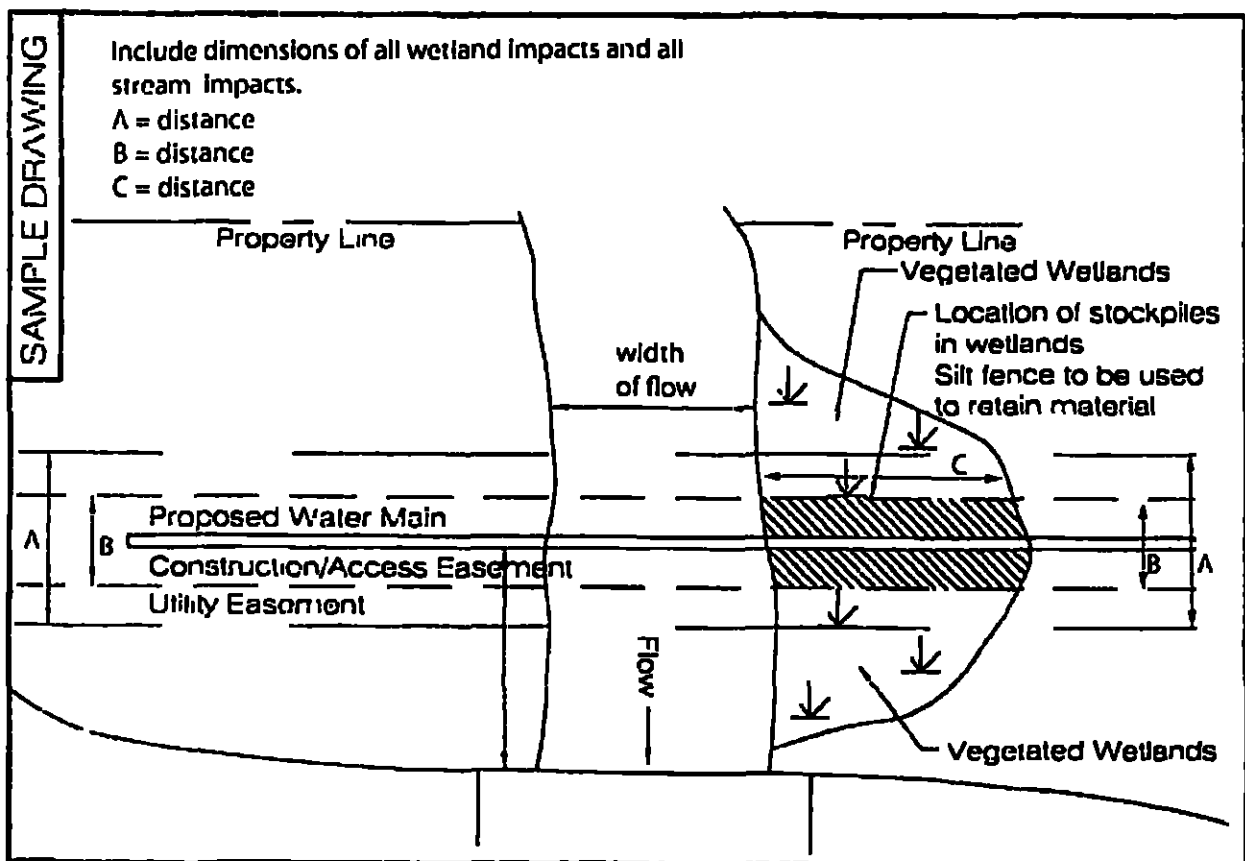
- - - - = Non-jurisdictional drainageway



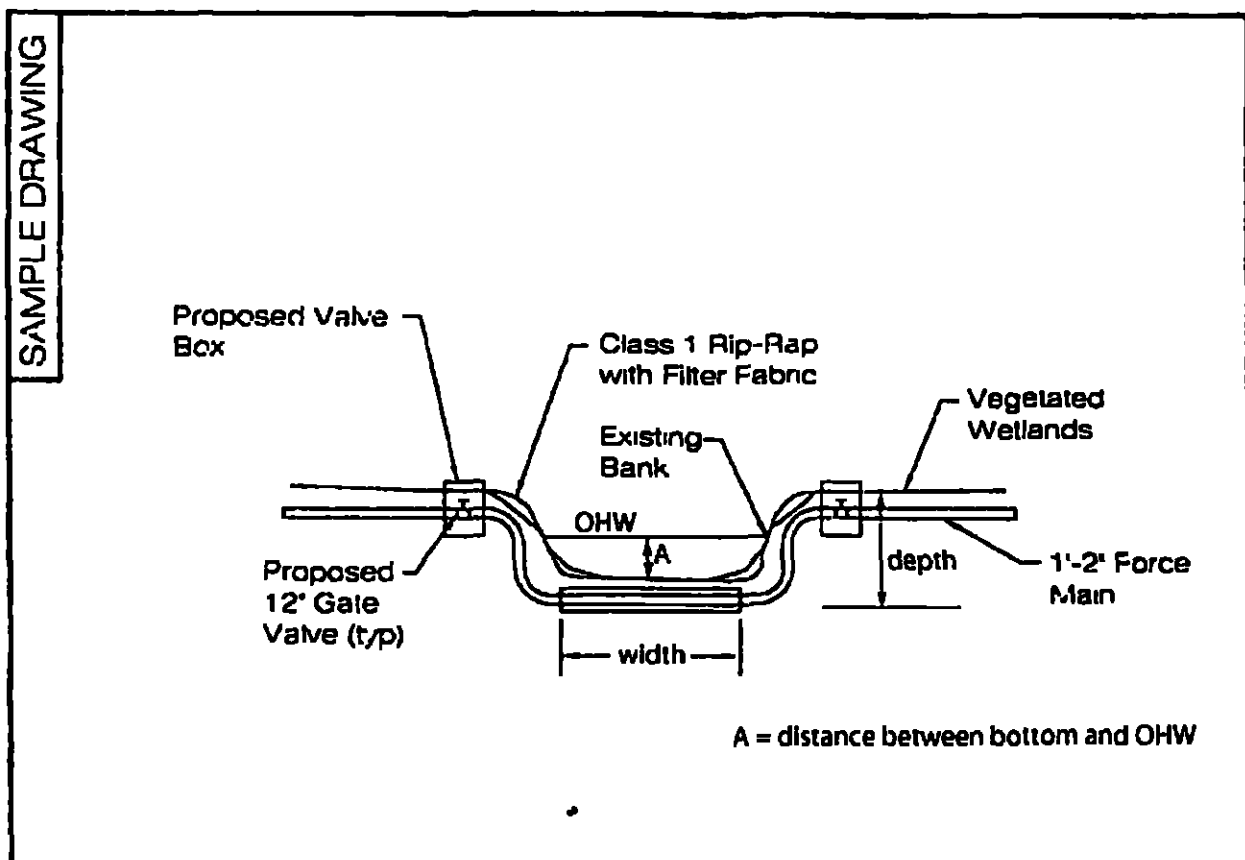
Provide dimensions (length, width, height) for all structures, water depth where appropriate, and North arrow.

April 2012





Provide dimensions for all structures (length, width, height), water levels where appropriate and North arrow.  
 April 2012



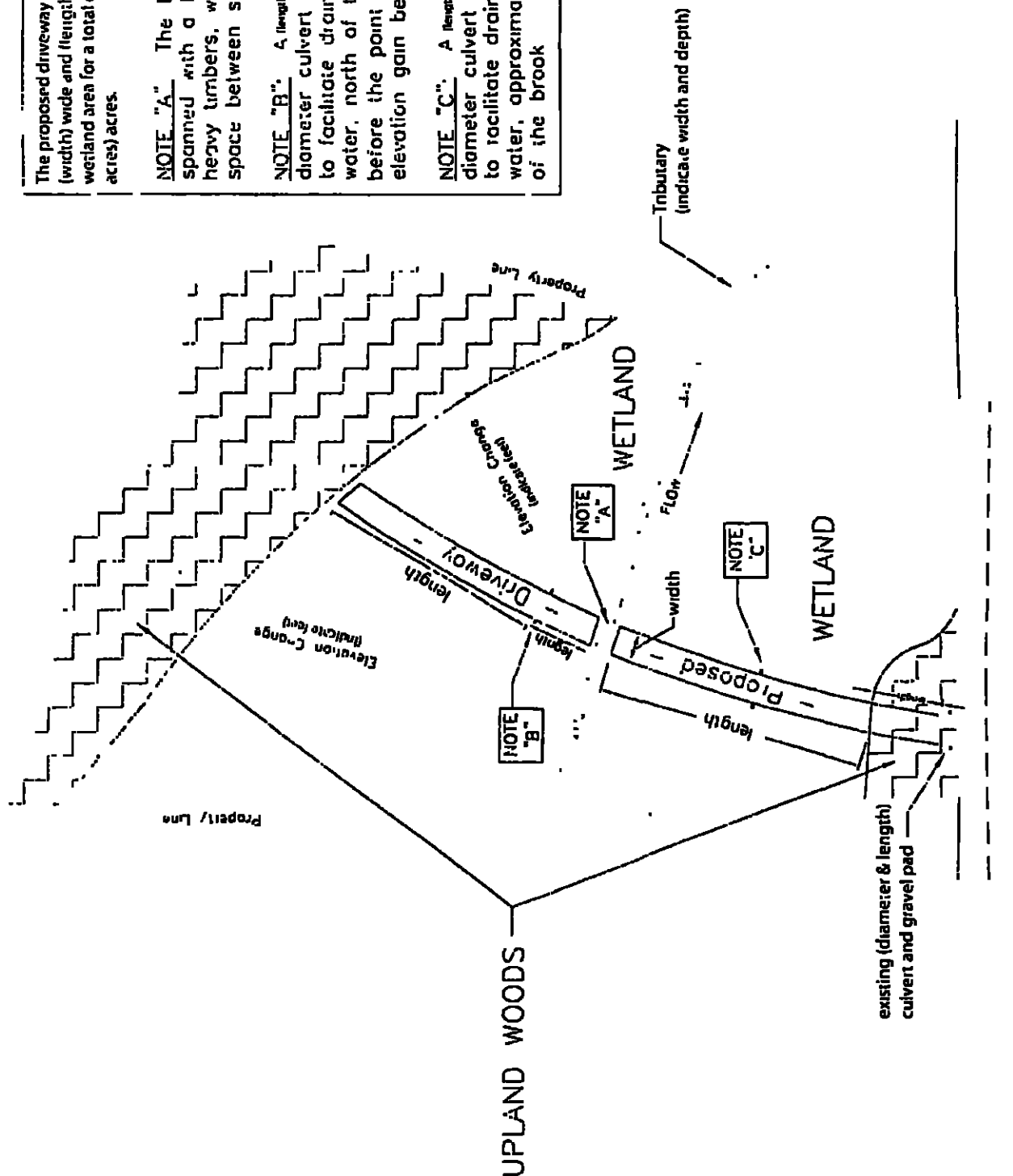
The proposed driveway would be approximately (width) wide and (length) feet long through the wetland area for a total of (total impact area in acres) acres.

**NOTE "A"** The brook would be spanned with a bridge made of heavy timbers, with ~~distance~~ feet of space between support pylons.

NOTE "B".  $\Delta$  length: not long. of culvert: diameter culvert would be installed, to facilitate drainage during high water, north of the brook just before the point where the elevation gain begins

**NOTE "C":** A 10-foot<sup>6</sup> foot long, 10-inch diameter culvert would be installed, to facilitate drainage during high water, approximately 100 feet south of the brook

April 2012



**Provide dimensions (length, width, height) for all structures, water depth where appropriate, and North arrow.**

## Everyone's Guide to the USEPA Guidelines

You have applied for a Department of the Army permit and have been told that your project "does not appear to comply with the USEPA Guidelines" or you have been requested to "provide documentation pursuant to the USEPA Guidelines." You have been handed a copy of Title 40 of the Code of Federal Regulations Part 230 entitled Guidelines for Specification of Disposal Sites for Dredged or Fill Material as promulgated by the U.S. Environmental Protection Agency (USEPA), and have been referred to Section 230.10 of this document. You open the regulations and read in tiny print the following "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences."

At this point you are likely exclaiming to yourself "What does all this mean???" Allow us to explain it.

The USEPA Guidelines are a set of regulations written by the U.S. Environmental Protection Agency and administered by the Corps of Engineers in its permit program. We (the Corps) use these guidelines in our evaluation of the impact of a project on the environment.

Let's start with the statement highlighted above. Let's break it down into its components and turn it back into "English":

### What it Says

No discharge of dredged or fill material shall be permitted

if there is a practicable alternative to the proposed discharge

which would have less adverse impact on the aquatic ecosystem

so long as the alternative does not have other significant adverse environmental consequences.

### What it Really Means

You cannot place earth, concrete, gravel, dirt, stone or any other similar material into the water or into any wetland

if there is some other way you could do your project and achieve the intended purpose

which would not be as bad for fish, waterfowl, plants or other wildlife

as long as the other way you are considering doing your project does not result in other really bad problems for the environment.

Compliance with the USEPA Guidelines is best illustrated by example. Let's suppose you are proposing to build a retaining wall along your shoreline to protect your property. The purpose of your project is thus erosion protection. Now let's consider three locations for this proposed wall: above the existing shoreline on property which is high and dry, at the existing shoreline, and 20 feet out into the water. Placing the wall above the existing shoreline is not practicable in this case because it will leave a portion of your property exposed to erosion. Placing the wall 20 feet out into the water would achieve the project purpose of shoreline protection but would have an adverse effect on plant and animal life. A practicable alternative to such a location is to place the wall along the shoreline. Using this location along the shoreline would comply with the USEPA Guidelines, and we may be able to give you a permit. This is because the plan minimizes the amount of material which will actually go into the water, thus minimizing the threat to fish and wildlife of the loss of places where they live and reproduce, and accomplishes your project purpose.

The above example is somewhat simplistic but it illustrates the basis of the process: the Corps of Engineers will issue a permit only when the project represents the least environmentally damaging practicable alternative. When we evaluate an alternative you have chosen we consider such factors as cost, availability, site characteristics, and project purpose. These are not overriding factors. You will still be required to use a less damaging alternative even if it costs more or results in reducing the size of your project.

You may be asked to consider using another site for your project. The fact that you do not own another site does not preclude its consideration if that site is available to you and could reasonably be obtained by you. You should consider evaluating and presenting alternatives to us that you have considered that have less adverse effect on the environment. The regulations under which we operate do not allow us to issue a permit for a project if there is a practicable alternative which would have less adverse impact on the aquatic environment.

The USEPA Guidelines involve a step-by-step review of project alternatives that demonstrate a valid attempt has been made by you to first avoid adverse impacts, then minimize remaining impacts, and to develop a mitigation plan that will compensate for those unavoidable impacts. The evaluation process is very strict in that it must be followed in the order specified above. That is, you cannot skip the avoidance and minimization steps and attempt to comply with the Guidelines by simply providing a mitigation plan.



There are two other items which are worthy of explanation: that is whether or not your project is "water-dependent," and whether or not your project is located in a "special aquatic site."

A water-dependent project is that which must have access or proximity to the water, or be located in the water, to achieve its purpose. For example, a dock is a water-dependent project. It must be placed in the water to achieve its purpose of mooring a boat. A boat ramp is also a water-dependent project. It must be built in the water to allow boats to be launched. Placing fill in the water to build a parking lot is not water-dependent because parking lots can be built on dry land and don't need to be in the water to be used. Filling a wetland to build a house is also not water-dependent since homes can also be built on dry land.

Special aquatic sites are defined in Subpart E of the USEPA Guidelines. They include wetlands and vegetated shallows. The Guidelines presume that alternatives are always available for a non-water-dependent project proposed for a special aquatic site, and that these alternatives will have less adverse environmental impact.

We will decide whether or not your project complies with the USEPA Guidelines. You can assist us by providing information that shows you have selected the least environmentally damaging practicable alternative. You may have heard that you are not required to supply information, and that is true. However it is in your interest to help us because it will give us a better understanding of your project and the limitations under which you will be working. Only you are most familiar with your situation and thus you are best equipped to make a case for your proposal.

This guidance is intended to help you prepare the documentation necessary to demonstrate compliance with the USEPA Guidelines. We are providing the following list of information needs you should respond to in as much detail as possible.

The amount of information required to answer each question will depend upon the size of your project. Generally, the larger the project the more extensive and detailed the information should be. For example, more information will be needed for a subdivision than for a single home.

1. Describe the proposed project.
2. What is the purpose of the project?
3. How did you decide to make the project as big as it is? In some cases you may want to provide a market evaluation, noting factors such as how your market was defined, important demographic characteristics or considerations, and the

competitive profile you desire. Tell us what profit you expect, and how it will be achieved. (Note that we consider profit but it does not drive our review.)

The type of information you provide will depend upon your project. For small "Mom and Pop" projects, such as a fill pier or a boat ramp, factors such as market share may not have even been considered. However, for "megabucks" projects, such as shopping malls and residential subdivisions, such factors have likely been considered and you should provide this information.

4. What will happen if you don't build the project? Suppose you had to reduce the size of the project. Could you still proceed and realize a profit?

5. Are there requirements included in the proposed project to meet public safety or other requirements imposed by other governmental agencies (such as zoning requirements)?

6. How did you select the site for this project?

7. Explain how you used the site selection requirements to design your project. Describe those sites which were initially considered - even if only briefly - and why they were dropped from further consideration. For those sites that were considered more intensively list (such as in tabular form) the advantages and disadvantages of each possible site and how these factors were weighed in final site selection. Examples of factors to consider include accessibility, size, zoning, topography, soil conditions, environmental conditions, access to public services and utilities, and cost. Advantages and disadvantages of each site should be noted in terms of meeting your own needs, the needs of the community, the environment, and any others that may be appropriate.

8. What factors did you consider in the site layout? Some factors might include the necessary building area, parking areas, parking access, visibility standards, building code requirements etc. Describe specifically any modifications which were made to the project to avoid and minimize impacts to wetlands or other waters on the site.

9. In your estimate what will be the short-term and long-term consequences to society and to the environment if the project is built?

10. Describe any mitigation measures you have developed to compensate for the unavoidable loss of resources as a result of the proposed project. Your final mitigation proposal will need to include at least the following information:

- \* an assessment of the functions and values provided by the existing habitat
- \* a specific plan to compensate for the functions and values

which will be lost if your project is built. This plan should note features such as the size of the mitigation area, proposed grading and excavation, the type of habitat which will be provided, any proposed seeding or planting, the method of construction, a schedule, and the time to achieve lost functions and values.

It is generally not necessary to provide a detailed mitigation proposal in the initial stages of your application, but you should indicate your willingness to undertake mitigation and describe any conceptual plans you have developed. Final mitigation plans can be developed based upon coordination with us and with the other agencies concerned with natural resources.

U.S. Army Engineer District, Buffalo  
September 1991

**ATTACHMENT 2**  
**CONSULTING AGENCY RESPONSES TO**  
**ENVIRONMENTAL AND HISTORIC REPORT**  
**(POST-CIRCULATION)**



In reply refer to  
2013-I.UC-24551

June 18, 2013

La Wada Poarch, Abandonments Coordinator  
Norfolk Southern Corporation – Strategic Planning Dept  
3 Commercial Place  
Norfolk, VA 23510

Dear Ms Poarch:

Re: STB Docket No AB-290 (Sub-No 337x) Norfolk Southern Railway Company Abandonment, Lucas County, Ohio

This is in response to the submitted documentation dated May 7, 2013 and received by our office on May 9, 2013 concerning the proposed project. The project involves the abandonment of a 1-mile segment of rail line at Toledo, Lucas County, Ohio. My comments are made pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, and the regulations at 36 CFR Part 800

The abandonment of the 1-mile segment of line, between Mileposts XK299.3 and XK300.3, involves the removal of the rails and ties along the route. The ballast will then be graded to provide a level road bed. No ballast will be removed and no soil disturbance will occur. The contours of the existing road bed will remain as is and existing drainage systems will stay intact. There are no bridges along the segment. The segment was part of the first portion of the Erie & Kalamazoo Railroad, completed in 1836, which makes the line a significant historic resource to the state. However, the only changes to the line within the short segment will be the removal of the rails and ties, which have been replaced multiple times over the years making their contribution to the line's significance minor. The overall shape, dimensions, and appearance of the line will remain basically intact since the grade will be left in place. Also, the lack of structures, such as bridges or other significant structures, throughout the segment lessens its importance to the overall railroad line. Based on these factors, it is my opinion that the abandonment and proposed outlines activities will not affect historic properties for this project.

No archaeological or architectural investigations are recommended by the Ohio Historic Preservation Office for this project

If the project changes or archaeological remains are discovered during the course of the project, this office should be contacted as per 36 CFR § 800.13.

If you have any questions, please contact me at (614)298-2000, or by email at [cnelson@ohiohistory.org](mailto:cnelson@ohiohistory.org).

Sincerely,

Christopher Nelson, Project Reviews Manager

**OHIO HISTORICAL SOCIETY**

*Ohio Historic Preservation Office*

800 East 17th Avenue, Columbus, Ohio 43211 ph 614.298.2000 fx. 614.298.2037

[www.ohiohistory.org](http://www.ohiohistory.org)

**Poarch, Lawada G.**

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**From:** Simon Monroe <simon.monroe@noaa.gov>  
**Sent:** Tuesday, June 25, 2013 4:42 PM  
**To:** lawada.poarch@nscorp.com  
**Cc:** Kirchner, Marc C.; David Conner; Lucy Hall; Simon Monroe  
**Subject:** NGS Response, STB Docket AB-290 (SUB NO. 337X)

Thank you for sharing your railroad abandonment environmental report for  
TOLEDO, Lucas County, OHIO.

Approximately 00 geodetic survey marks may be located in the area described.

If marks will be disturbed by the abandonment, [THE RAILROAD] shall  
consult with the National Geodetic Survey (NGS) at least 90 days prior to  
beginning salvage activities that will disturb, or destroy any geodetic station  
marks are described on the attached file. Additional advice is provided at

<http://geodesy.noaa.gov/marks/railroads/>

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No Stations Found.

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB Docket No. AB-290 (Sub-No. 337X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN LUCAS COUNTY, OHIO**

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**VERIFIED NOTICE OF EXEMPT ABANDONMENT**

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**DRAFT NOTICE OF EXEMPTION  
[CAPTION SUMMARY]**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 337X)]

Norfolk Southern Railway Company – Abandonment Exemption – In Lucas County, Ohio

Norfolk Southern Railway Company (NSR) has filed on July 23, 2011, a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon approximately 1.0 miles of rail line extending between milepost XK 299.3 (to the south of the intersection of Woodstock Ave. and Nebraska Ave.) and milepost XK 300.3 (near the intersection of Douglas Rd. and Dorr St.), all of which is located in Toledo, Lucas County, Ohio. The Line traverses United States Postal Zip Code territory 43606 and 43607.

NSR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the subject line because the subject line is not a “through line;” (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period, and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad – Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To



address whether this condition adequately protects affected employees. a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 11, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by \_\_\_\_\_, 2013. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by \_\_\_\_\_, 2013, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NSR has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by \_\_\_\_\_, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available

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<sup>1</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25)

through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(c)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by \_\_\_\_\_, 2014, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: \_\_\_\_\_, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.